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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,335	04/04/2001	Ronald O. King	LEAR 0752 PUSP	3923

7590

09/29/2003

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EXAMINER

HOLLOWAY III, EDWIN C

ART UNIT

PAPER NUMBER

2635

DATE MAILED: 09/29/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/826,335

Applicant(s)

KING ET AL.

Examiner

Edwin C. Holloway, III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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**EXAMINER'S RESPONSE**

1. In response to the application filed 4-4-01, the application has been examined. The examiner has considered the presentation of claims in view of the disclosure and the present state of the prior art. And it is the examiner's opinion that the claims are unpatentable for the reasons set forth in this Office action:

***Claim Rejections - 35 USC § 102 & 103***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the

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differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-3, 5 and 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Iida (US 5420568). Iida discloses a wireless remote control system and method with command signal transmitter 26 having buttons 21-22 to transmit a command to receiver 3-6 connected to signal strength detector 8 and a controller 10 for performing a function of first or second set of functions based on the distance of the transmitter being within or outside a range, respectively, by comparing the signal strength to one or more thresholds. See figs. 2, and 5 and col. 6 line 23 - col. 7 line 35.

6. Claims 1-3, 5-7 and 10-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Snyder (US 6101428). Snyder discloses a wireless remote control system and method with command signal transmitter 20 having button 36 to transmit

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a command to receiver 22 connected to signal strength detector 52 and a controller 56 for performing a function of first or second set of functions based on the distance of the transmitter being within or outside a range, respectively, by comparing the signal strength to one or more thresholds. See figs. 2 and 3A and col. 3 line 45 - col. 4 line 25. Further, the signal strength may be reduced for short range functions in col. 7.

7. Claims 1-3, 5-7 and 10-15 are rejected under 35

U.S.C. 102(e) as being anticipated by Lin (US 6472999). Lin discloses a wireless remote control system and method with command signal transmitter 12 having buttons 24-28 to transmit a command to receiver 14 connected to signal strength detector 42 and a controller 48 for performing a function of first or second set of functions based on the distance of the transmitter being within or outside a range, respectively, by comparing the signal strength to one or more thresholds. See figs. 1-2, 5, the abstract, col. 1 line 62 - col. 2 line 21 and col. 3 line 8 - col. 6 line 14. Further, the signal strength may be reduced for short range functions in col. 7.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Iida (US 5420568), Snyder (US 6101428) or Lin (US 6472999) as applied above in view of Nakaya (US 5767688) or Bartel (US 5898230). Nakaya discloses an analogous art wireless

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vehicle control system with RSSI in col. 4. Bartel discloses an analogous art wireless vehicle control system with RSSI in col. 6. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the RSSI of Nakaya or Bartel in the system of Iida, Snyder or Lin as an obvious known manner to provide signal strength detection.

9. Claim 6-7 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iida (US 5420568) as applied above in view of Boschini (US 5600323) or Flick (US 6049268). Boschini discloses plural distance detection thresholds in fig. 2 and col. 3. Flick includes plural detection thresholds in fig. 1 and col. 4. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the plural thresholds of Boschini or Flick in the system of Iida to provide a number of intermediate functions.

10. Claim 7 and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iida (US 5420568) as applied above in view of Settles (US 5933074) Christie (US 6285296) or Robineau (US 6512462). Settles, Christie and Robineau discloses reducing the signal strength for a set of commands limited to short range. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included this limitation of Settles Christie or Robineau in the invention of

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Iida to assure appropriate commands are limited to short range operation.

11. Claims 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Iida (US 5420568) in view of Settles (US 5933074) Christie (US 6285296) or Robineau (US 6512462) as applied above and further in view of Priest (US 5745842). Priest discloses a digital FM communication with frequency deviation varying corresponding to signal strength. Narrow deviation for closer signals. See cols. 9-10. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have limited the range by frequency deviation in the combination applied above in view of Priest disclosing narrow deviation for closer transmitters.

12. Claims 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder (US 6101428) as applied above and further in view of Priest (US 5745842). Priest discloses a digital FM communication with frequency deviation varying corresponding to signal strength. Narrow deviation for closer signals. See cols. 9-10. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have limited the range by frequency deviation in Snyder in view of Priest disclosing narrow deviation for closer transmitters.

13. Claims 9 is rejected under 35 U.S.C. 103(a) as being

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unpatentable over Iida (US 5420568) in view of Settles (US 5933074) Christie (US 6285296) or Robineau (US 6512462) as applied above and further in view of Zimmer (US 3760422). Zimmer discloses a short range unlocking device with narrow pulses in col. 4. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have limited the range using narrow pulses in the combination applied above in view of Zimmer disclosing short pulses to limit distance.

14. Claims 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snyder (US 6101428) as applied above and further in view of Zimmer (US 3760422). Zimmer discloses a short range unlocking device with narrow pulses in col. 4. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have limited the range using narrow pulses in Snyder in view of Zimmer disclosing short pulses to limit distance.

#### **CONTACT INFORMATION**

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology center 2600 receptionist whose telephone number is (703) 305-4700.

Facsimile submissions may be sent via fax number (703) 872-9314 to customer service for entry by technical support staff. Questions regarding fax submissions should be directed to customer service voice line (703) 306-0377.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C.



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Holloway, III whose telephone number is (703) 305-4818. The examiner can normally be reached on M-F (8:30:-5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (703) 305-4704.

EH  
9/21/03



EDWIN C. HOLLOWAY, III  
PRIMARY EXAMINER  
ART UNIT 2635